

**VIRGINIA I. RASCON,** )  
)  
Plaintiff, )  
)  
**v.** )  
)  
**DEUTSCHE BANK TRUST** ) **Civil Action No.: 3:13-cv-33**  
**COMPANY AMERICAS, AS** )  
**TRUSTEE FOR RALI 2007QS6;** )  
**GMAC MORTGAGE; AND** )  
**BEVERLY MITRISIN AS** )  
**SUBSTITUTE TRUSTEE IN** )  
**FORECLOSURE,** )  
)  
Defendants. )

**COME NOW** defendants Deutsche Bank Trust Company Americas as Trustee for RALI 2007QS6 ("Deutsche Bank") and GMAC Mortgage, LLC ("GMAC") (collectively referred to herein as "Defendants"), and file this Answer to Plaintiff's Complaint, stating as follows:

1. The Defendants admit upon information and belief that Plaintiff is a resident citizen of Texas, and further admit that the real property made the subject of this litigation is located at 500 Rosinante Road, El Paso, Texas.

2. The Defendants admit that Deutsche Bank does business in Texas. Except as expressly admitted herein, the Defendants deny the allegations in this Paragraph.

3. The Defendants admit that Beverly Mitrison is a substitute trustee. Except as expressly admitted herein, the Defendants deny the allegations in this Paragraph.

## **II. FACTUAL BACKGROUND**

4. Admitted

5. Admitted.

6. The Defendants admit that the original payee was Homecomings Financial, LLC.

Except as expressly admitted herein, the Defendants deny the allegations in this Paragraph.

7. The Defendants admit that the loan was assigned to Deutsche Bank Trust Company Americas as Trustee for RALI 2007QS6 by way of an assignment recorded as document number 20110013339 in the Real Property Records of El Paso County, Texas.

8. Denied.

## **III. REQUEST FOR INJUNCTIVE RELIEF**

9. Denied.

10. Denied.

11. Denied.

12. The Defendants deny that Plaintiff is entitled to the requested relief or to any relief whatsoever.

13. Denied.

## **IV. DEMAND FOR ACCOUNTING**

14. Denied.

15. Denied.

16. The Defendants deny that Plaintiff is entitled to the requested relief or to any relief whatsoever.

**V. DEFENDANTS HAVE NO LEGAL STANDING TO CONDUCT THE NON-JUDICIAL FORECLOSURE SALE**

17. The Defendants reallege their responses to Paragraphs 1-16 as if set forth fully herein.

18. Denied.

19. Denied.

20. Denied.

21. Denied.

**VI. REQUEST FOR TEMPORARY RESTRAINING ORDER AND PERMENT INJUNCTION**

22. The Defendants reallege their responses to Paragraphs 1-21 as if set forth fully herein.

23. Denied.

24. Denied.

25. The Defendants deny that Plaintiff is entitled to the requested relief or to any relief whatsoever.

**VII. PRAYER**

26. The Defendants deny that Plaintiff is entitled to the requested relief or to any relief whatsoever.

27. The Defendants deny that Plaintiff is entitled to the requested relief or to any relief whatsoever.

28. The Defendants deny that Plaintiff is entitled to the requested relief or to any relief whatsoever.

29. The Defendants deny that Plaintiff is entitled to the requested relief or to any relief whatsoever.

30. The Defendants deny that Plaintiff is entitled to the requested relief or to any relief whatsoever.

31. The Defendants deny that Plaintiff is entitled to the requested relief or to any relief whatsoever.

### **AFFIRMATIVE DEFENSES**

1. Plaintiff's allegations fail to state a claim upon which relief can be granted.

2. Plaintiff's claims are barred by the terms and conditions of the Note and Security Instrument.

3. Plaintiff lacks standing to assert one or more of her claims.

4. Plaintiff's claims are barred by her failure to do equity and by the doctrine of unclean hands.

5. To the extent Plaintiff has suffered any damages, such damages were caused by, and are the responsibility of persons, parties, and/or entities other than the Defendants.

6. Plaintiff has failed to mitigate her damages.

7. The Defendants' actions were in compliance with all applicable statutes and laws.

8. The Defendants plead the defenses of laches, acquiescence, ratification, statute of frauds, repose, res judicata, release, waiver, illegality, fraud, accord and satisfaction, parol evidence, payment, judicial estoppel, and collateral estoppel.

9. Plaintiff's claims are barred by the applicable statutes of limitations.

Respectfully submitted,

**/s/ Graham Gerhardt**

Graham W. Gerhardt

Blake B. Goodsell

BRADLEY ARANT BOULT CUMMINGS, LLP

One Federal Place

1819 Fifth Avenue North

Birmingham, Alabama 35203

Telephone: (205) 521-8000

Facsimile: (205) 521-8800

[ggerhardt@babbc.com](mailto:ggerhardt@babbc.com)

[bgoodsell@babbc.com](mailto:bgoodsell@babbc.com)

ATTORNEYS FOR DEUTSCHE BANK AND GMAC  
MORTGAGE, LLC

**CERTIFICATE OF SERVICE**

I hereby certify that on February 5, 2013, I served a copy of the foregoing via the Court's electronic filing system and also by first-class U.S. Mail, postage prepaid, to the following:

Omar Maynez

WATSON & MAYNEZ, P.C.

1123 E. Rio Grande Avenue

El Paso, Texas 79902

Fax: (866) 201-0967

**/s/ Graham Gerhardt**

OF COUNSEL